IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
CONTEMPT PETITION NO.187 OF 1993

Sunder Bhojraj Lalla .... Petitioner
Vs.
Gopal Bhojraj Lalla & Ors. .... Respondents

Shri S.N. Gawade, AGP, for the Respondent No.3.

CORAM: R.M.S. KHANDEPARKAR, J.

DATED: NOVEMBER 30, 2004

P.C:

1. When the matter was called out for hearing on admission in the morning session, the learned Advocate Shri A.N. Nesarikar h/for Shri M.C. Dixit for the petitioner requested for adjournment of the matter. Considering the fact that the matter relates to the year 1993 and it has not even been admitted till this date, the request for adjournment was rejected, whereupon the learned Advocate for the petitioner requested that the matter be kept back and accordingly the matter was called out in the beginning of the second session of the day. However, none has appeared on behalf of the petitioner. Shri S.N. Gawade, AGP, present on behalf of the respondent No.3-State which is purely a formal party.

2. The grievance of the petitioner pertains to non-compliance of the order of injunction granted by the Co-operative Court. The injunction was against the respondent Nos.1 and 2 from interfering with the rights of the petitioner to enter upon, use and remain in the suit flat. Inspite of the said order, it is the case of the petitioner that on 5-2-1993 there was obstruction to the petitioner from entering the suit flat. In the affidavit in-reply filed by the respondents, the said allegation has been denied and they have narrated that the respondents are occupying a totally different flat. Apart from bare allegation of the petitioner about the alleged acts of obstruction to the petitioner to enter his suit flat, there is no material placed on record in support of the said allegation. Being so, there is no prima facie case made out for proceeding against the respondents for contempt of Court in relation to the order of injunction. On this count alone, the petition is liable to be rejected.

3. In any case, the very fact that none has appeared for the petitioner inspite of being fully aware of the fact that the matter is fixed for hearing today and on the specific request of the learned Advocate for the petitioner, the matter was kept back for being taken up during the afternoon session, the same discloses that the petitioner is no more interested in pursuing with

the matter.

4. For the reasons stated above, therefore, the petition is rejected. The notice stands discharged.